

By: Nelson

S.B. No. 6

A BILL TO BE ENTITLED

AN ACT

relating to protective services; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. CHILD PROTECTIVE SERVICES

SECTION 1.01. Subchapter A, Chapter 107, Family Code, is amended by adding Section 107.0045 to read as follows:

Sec. 107.0045. DISCIPLINE OF ATTORNEY AD LITEM. An attorney ad litem who fails to perform the duties required by Sections 107.003 and 107.004 is subject to disciplinary action under Subchapter E, Chapter 81, Government Code.

SECTION 1.02. Section 261.001, Family Code, is amended by amending Subdivision (2) and adding Subdivision (9) to read as follows:

(2) "Department" means the Department of Family and Protective ~~[and Regulatory]~~ Services.

(9) "Residential child-care facility" has the meaning assigned by Section 42.002, Human Resources Code.

SECTION 1.03. Section 261.002, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The department shall enter into agreements with other states to allow for the exchange of reports of child abuse and neglect in other states' central registry systems. The department shall use information obtained under this subsection in performing the background checks required under Section 42.056, Human

1 Resources Code. The department shall cooperate with federal
2 agencies and shall provide information and reports of child abuse
3 and neglect to the appropriate federal agency that maintains the
4 national registry for child abuse and neglect, if a national
5 registry exists.

6 SECTION 1.04. (a) Section 261.107(a), Family Code, is
7 amended to read as follows:

8 (a) A person commits an offense if the person knowingly or
9 intentionally makes a report as provided in this chapter that the
10 person knows is false or lacks factual foundation. An offense under
11 this section is a state jail felony [~~Class A misdemeanor~~] unless it
12 is shown on the trial of the offense that the person has previously
13 been convicted under this section, in which case the offense is a
14 [~~state jail~~] felony of the third degree.

15 (b) The change in law made by this section to Section
16 261.107(a), Family Code, applies only to an offense committed on or
17 after the effective date of this section. An offense committed
18 before the effective date of this section is covered by Section
19 261.107, Family Code, as it existed on the date the offense was
20 committed, and the former law is continued in effect for that
21 purpose. For purposes of this subsection, an offense is committed
22 before the effective date of this section if any element of the
23 offense occurs before that date.

24 SECTION 1.05. (a) Sections 261.301(a), (d), (f), (g), and
25 (h), Family Code, are amended to read as follows:

26 (a) With assistance from the appropriate state or local law
27 enforcement agency as provided by this section, the department or

1 designated agency shall make a prompt and thorough investigation of
2 a report of child abuse or neglect allegedly committed by a person
3 responsible for a child's care, custody, or welfare. The
4 investigation shall be conducted without regard to any pending suit
5 affecting the parent-child relationship.

6 (d) The department shall [~~may~~] by rule assign priorities and
7 prescribe investigative procedures for investigations based on the
8 severity and immediacy of the alleged harm to the child. The rules
9 must require the department to immediately respond to reports of
10 abuse and neglect that are assigned the highest priority. The
11 primary purpose of the investigation shall be the protection of the
12 child.

13 (f) An investigation of a report to the department [~~that is~~
14 ~~assigned the highest priority in accordance with department rules~~
15 ~~adopted under Subsection (d) and~~] that alleges that a child has been
16 or may be the victim of conduct that constitutes a criminal offense
17 that poses an immediate risk of physical or sexual abuse of a child
18 that could result in the death of or serious harm to the child shall
19 be conducted jointly by a peace officer, as defined by Article 2.12,
20 Code of Criminal Procedure, from the appropriate local law
21 enforcement agency and the department or the agency responsible for
22 conducting an investigation under Subchapter E.

23 (g) The inability or unwillingness of a local law
24 enforcement agency to conduct a joint investigation under this
25 section [~~Subsection (f)~~] does not constitute grounds to prevent or
26 prohibit the department from performing its duties under this
27 subtitle. The department shall document any instance in which a law

1 enforcement agency is unable or unwilling to conduct a joint
2 investigation under this section [~~Subsection (f)~~].

3 (h) The [~~department and the~~] appropriate local law
4 enforcement agency, with assistance from the department, shall
5 conduct an investigation, other than an investigation under
6 Subchapter E, as provided by this section and Article 2.27, Code of
7 Criminal Procedure, if the investigation is of a report [~~of child~~
8 ~~abuse or neglect that is assigned the highest priority in~~
9 ~~accordance with department rules adopted under Subsection (d) and~~
10 that alleges that a child has been or may be the victim of conduct
11 that constitutes a criminal offense that poses an immediate risk of
12 physical or sexual abuse of a child that could result in the death
13 of or serious harm to the child. Immediately on receipt of a report
14 described by this subsection, the department shall notify the
15 appropriate local law enforcement agency of the report.

16 (b) The change in law made by this section to Section
17 261.301, Family Code, applies to the investigation of a report of
18 child abuse or neglect made on or after the effective date of this
19 section. The investigation of a report of child abuse or neglect
20 made before the effective date of this section is governed by the
21 law in effect on the date the report was made, and the former law is
22 continued in effect for that purpose.

23 SECTION 1.06. Subchapter D, Chapter 261, Family Code, is
24 amended by adding Section 261.3011 to read as follows:

25 Sec. 261.3011. JOINT INVESTIGATION TRAINING. The
26 department shall provide joint training to department
27 investigators and law enforcement officers relating to methods to

1 effectively conduct joint investigations under Section 261.301.

2 SECTION 1.07. (a) Subchapter D, Chapter 261, Family Code,
3 is amended by adding Section 261.3031 to read as follows:

4 Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION;
5 CAPIAS. (a) If a person subject to a court order under Section
6 261.303 is shown to have failed to comply with the order, the court
7 shall issue a capias for the arrest of the person.

8 (b) Law enforcement officials shall treat the capias in the
9 same manner as an arrest warrant for a criminal offense and shall
10 enter the capias in the computer records for outstanding warrants
11 maintained by the local police, sheriff, and Department of Public
12 Safety. The capias shall be forwarded to and disseminated by the
13 Texas Crime Information Center and the National Crime Information
14 Center.

15 (c) If the person is taken into custody, the law enforcement
16 officer shall:

17 (1) obtain information on the location of the person
18 and the child who is the subject of the investigation of a report of
19 child abuse or neglect; and

20 (2) forward that information to the department or
21 designated agency.

22 (b) The change in law made by Section 261.3031, Family Code,
23 as added by this section, applies only to a person who is the
24 subject of a court order rendered under Section 261.303, Family
25 Code, on or after the effective date of this section. A person who
26 is the subject of an order rendered before that date is governed by
27 the law in effect on the date the order was rendered, and the former

1 law is continued in effect for that purpose.

2 SECTION 1.08. Section 261.310, Family Code, is amended by
3 amending Subsection (c) and adding Subsection (e) to read as
4 follows:

5 (c) The professional training curriculum developed under
6 this section shall include:

7 (1) information concerning:

8 (A) [~~(1)~~] physical abuse and neglect, including
9 distinguishing physical abuse from ordinary childhood injuries;

10 (B) [~~(2)~~] psychological abuse and neglect;

11 (C) [~~(3)~~] available treatment resources; and

12 (D) [~~(4)~~] the incidence and types of reports of
13 child abuse and neglect that are received by the investigating
14 agencies, including information concerning false reports; and

15 (2) law-enforcement-style training, including
16 training relating to forensic interviewing and investigatory
17 techniques and the collection of physical evidence.

18 (e) The department, in conjunction with the Department of
19 Public Safety, shall provide to the department's residential
20 child-care facility licensing investigators advanced training in
21 investigative protocols and techniques.

22 SECTION 1.09. Subchapter D, Chapter 261, Family Code, is
23 amended by adding Section 261.3126 to read as follows:

24 Sec. 261.3126. COLOCATION OF INVESTIGATORS. (a) In each
25 county with a population of 75,000 or more, the department and the
26 county and municipal law enforcement agencies that investigate
27 child abuse in the county shall enter into a memorandum of

1 understanding to provide for the colocation of investigators from
2 the department and the law enforcement agencies to improve the
3 efficiency of child abuse investigations. The department shall
4 consider locating investigators from the department and county and
5 municipal law enforcement agencies at a children's advocacy center
6 in the county.

7 (b) If a county with a population of 75,000 or more does not
8 have a children's advocacy center, the department shall consider
9 establishing a children's advocacy center in the county as provided
10 by Section 264.402 and locating investigators from the department
11 and county and municipal law enforcement agencies at the center.

12 SECTION 1.10. Subchapter E, Chapter 261, Family Code, is
13 amended by adding Section 261.410 to read as follows:

14 Sec. 261.410. REPORT OF ABUSE BY OTHER CHILDREN. (a) In
15 this section:

16 (1) "Physical abuse" means:

17 (A) physical injury that results in substantial
18 harm to the child, or the genuine threat of substantial harm from
19 physical injury to the child, including an injury that is at
20 variance with the history or explanation given and excluding an
21 accident or reasonable discipline by a parent, guardian, or
22 managing or possessory conservator that does not expose the child
23 to a substantial risk of harm; or

24 (B) failure to make a reasonable effort to
25 prevent an action by another person that results in physical injury
26 that results in substantial harm to the child.

27 (2) "Sexual abuse" means:

1 (A) sexual conduct harmful to a child's mental,
2 emotional, or physical welfare, including conduct that constitutes
3 the offense of indecency with a child under Section 21.11, Penal
4 Code, sexual assault under Section 22.011, Penal Code, or
5 aggravated sexual assault under Section 22.021, Penal Code;

6 (B) failure to make a reasonable effort to
7 prevent sexual conduct harmful to a child;

8 (C) compelling or encouraging a child to engage
9 in sexual conduct as defined by Section 43.01, Penal Code;

10 (D) causing, permitting, encouraging, engaging
11 in, or allowing the photographing, filming, or depicting of a child
12 if the person knew or should have known that the resulting
13 photograph, film, or depiction of the child is obscene as defined by
14 Section 43.21, Penal Code, or pornographic; or

15 (E) causing, permitting, encouraging, engaging
16 in, or allowing a sexual performance by a child as defined by
17 Section 43.25, Penal Code.

18 (b) The department shall require a residential child-care
19 facility to report each incident of physical or sexual abuse
20 committed by a child against another child.

21 (c) Using information received under Subsection (a), the
22 department shall compile a report that includes information:

23 (1) regarding the number of cases of physical and
24 sexual abuse committed by a child against another child;

25 (2) identifying the residential child-care facility;

26 (3) regarding the date each allegation of abuse was
27 made;

1 (4) regarding the date each investigation was started
2 and concluded;

3 (5) regarding the findings and results of each
4 investigation; and

5 (6) regarding the number of children involved in each
6 incident investigated.

7 SECTION 1.11. Subchapter C, Chapter 262, Family Code, is
8 amended by adding Section 262.206 to read as follows:

9 Sec. 262.206. DESIGNATING PERSON TO CONSENT TO CERTAIN
10 TREATMENT. An order appointing the department as the temporary
11 managing conservator of a child must include the name of the
12 individual who has the right to consent to:

13 (1) medical, dental, and surgical treatment involving
14 invasive procedures for the child; and

15 (2) psychiatric and psychological treatment for the
16 child.

17 SECTION 1.12. (a) Section 263.102(a), Family Code, is
18 amended to read as follows:

19 (a) The service plan must:

20 (1) be specific;

21 (2) be in writing;

22 (3) be prepared by the department or other agency in
23 conference with the child's parents;

24 (4) state appropriate deadlines;

25 (5) state whether the goal of the plan is:

26 (A) return of the child to the child's parents;

27 (B) termination of parental rights and placement

1 of the child for adoption; or

2 (C) because of the child's special needs or
3 exceptional circumstances, continuation of the child's care out of
4 the child's home;

5 (6) state steps that are necessary to:

6 (A) return the child to the child's home if the
7 placement is in foster care;

8 (B) enable the child to remain in the child's
9 home with the assistance of a service plan if the placement is in
10 the home under the department's or other agency's supervision; or

11 (C) otherwise provide a permanent safe placement
12 for the child;

13 (7) state the actions and responsibilities that are
14 necessary for the child's parents to take to achieve the plan goal
15 during the period of the service plan and the assistance to be
16 provided to the parents by the department or other authorized
17 agency toward meeting that goal;

18 (8) state any specific skills or knowledge that the
19 child's parents must acquire or learn to achieve the plan goal;

20 (9) state the name of the person with the department or
21 other agency whom the child's parents may contact for information
22 relating to the child if other than the person preparing the plan;
23 and

24 (10) [~~9~~] prescribe any other term or condition that
25 the department or other agency determines to be necessary to the
26 service plan's success.

27 (b) Section 263.202(c), Family Code, is amended to read as

1 follows:

2 (c) The court shall advise the parties that progress under
3 the service plan will be reviewed at all subsequent hearings,
4 including a review of whether the parties have acquired or learned
5 any specific skills or knowledge stated in the service plan.

6 (c) The changes in law made by Sections 263.102(a) and
7 263.202(c), Family Code, as amended by this section, apply only to a
8 child placed in the custody of the Department of Family and
9 Protective Services on or after the effective date of this section.
10 A child placed in the custody of the department before the effective
11 date of this section is governed by the law in effect on the date the
12 child was placed in the department's custody, and the former law is
13 continued in effect for that purpose.

14 SECTION 1.13. Section 263.202, Family Code, is amended by
15 amending Subsection (b) and adding Subsection (e) to read as
16 follows:

17 (b) Except as provided by Subsection (e), a [A] status
18 hearing shall be limited to matters related to the contents and
19 execution of the service plan filed with the court. The court shall
20 review the service plan that the department or other agency filed
21 under this chapter for reasonableness, accuracy, and compliance
22 with requirements of court orders and make findings as to whether:

23 (1) a plan that has the goal of returning the child to
24 the child's parents adequately ensures that reasonable efforts are
25 made to enable the child's parents to provide a safe environment for
26 the child; and

27 (2) the child's parents have reviewed and understand

1 the service plan and have been advised that unless the parents are
2 willing and able to provide the child with a safe environment, even
3 with the assistance of a service plan, within the reasonable period
4 of time specified in the plan, the parents' parental and custodial
5 duties and rights may be subject to restriction or to termination
6 under this code or the child may not be returned to the parents.

7 (e) At the status hearing, the court shall make a finding as
8 to whether the court has identified the individual who has the right
9 to consent for the child under Section 262.206.

10 SECTION 1.14. Section 263.401(b), Family Code, is amended
11 to read as follows:

12 (b) The court may not retain jurisdiction of the suit after
13 the time described by Subsection (a) unless the court finds that
14 extraordinary circumstances prevent the court from rendering a
15 final order within the time described by Subsection (a) and that
16 continuing the appointment of the department as temporary managing
17 conservator is in the best interest of the child. If the court
18 makes those findings, the court may retain the suit on the court's
19 docket for a period not to exceed 180 days after the time described
20 by Subsection (a) [~~, if the court finds that continuing the~~
21 ~~appointment of the department as temporary managing conservator is~~
22 ~~in the best interest of the child~~]. If the court retains the suit on
23 the court's docket, the court shall render an order in which the
24 court:

25 (1) schedules the new date for dismissal of the suit
26 not later than the 180th day after the time described by Subsection
27 (a);

1 (2) makes further temporary orders for the safety and
2 welfare of the child as necessary to avoid further delay in
3 resolving the suit; and

4 (3) sets a final hearing on a date that allows the
5 court to render a final order before the required date for dismissal
6 of the suit under this subsection.

7 SECTION 1.15. Section 263.502(c), Family Code, is amended
8 to read as follows:

9 (c) The placement review report must:

10 (1) evaluate whether the child's current placement is
11 appropriate for meeting the child's needs;

12 (2) evaluate whether efforts have been made to ensure
13 placement of the child in the least restrictive environment
14 consistent with the best interest and special needs of the child if
15 the child is placed in institutional care;

16 (3) identify the services that are needed to assist a
17 child who is at least 16 years of age in making the transition from
18 substitute care to independent living if the services are available
19 in the community;

20 (4) evaluate whether the child's current educational
21 placement is appropriate for meeting the child's academic needs;

22 (5) identify other plans or services that are needed
23 to meet the child's special needs or circumstances; and

24 (6) [~~5~~] describe the efforts of the department or
25 authorized agency to place the child for adoption if parental
26 rights to the child have been terminated and the child is eligible
27 for adoption.

1 SECTION 1.16. Section 264.001, Family Code, is amended to
2 read as follows:

3 Sec. 264.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

4 (1) "Department" [~~,"department"~~] means the Department
5 of Family and Protective [~~and Regulatory~~] Services.

6 (2) "Commission" means the Health and Human Services
7 Commission.

8 (3) "Executive commissioner" means the executive
9 commissioner of the Health and Human Services Commission.

10 (4) "Residential child-care facility" has the meaning
11 assigned by Section 42.002, Human Resources Code.

12 SECTION 1.17. Subchapter A, Chapter 264, Family Code, is
13 amended by adding Section 264.013 to read as follows:

14 Sec. 264.013. TRAINING ON MENTAL HEALTH ISSUES. (a) The
15 department shall provide training related to children's mental
16 health issues to:

17 (1) department caseworkers whose clients are
18 children;

19 (2) foster parents;

20 (3) family court judges; and

21 (4) parents in the process of reunification with their
22 children.

23 (b) The training provided under this section must include
24 information regarding:

25 (1) general mental health issues;

26 (2) signs and symptoms of mental health problems;

27 (3) the risks and benefits of different types of

1 treatment, including medications;

2 (4) the availability of mental health services
3 available in the community;

4 (5) Medicaid coverage for mental health services; and

5 (6) how to raise questions or complaints about the
6 mental health treatment that is available to children in foster
7 care or that a foster child is receiving.

8 (c) The department shall work with stakeholder groups to
9 create training programs required by this section.

10 SECTION 1.18. Section 264.101, Family Code, is amended by
11 adding Subsection (d-1) to read as follows:

12 (d-1) The executive commissioner may adopt rules that
13 prescribe the maximum amount of state money that a residential
14 child-care facility may spend on nondirect residential services,
15 including administrative services. The commission shall recover
16 the money that exceeds the maximum amount established under this
17 subsection.

18 SECTION 1.19. (a) Section 264.106, Family Code, is amended
19 to read as follows:

20 Sec. 264.106. REQUIRED CONTRACTS FOR SUBSTITUTE CARE AND
21 CASE MANAGEMENT SERVICES. (a) In this section:

22 (1) "Case management services" includes
23 caseworker-child visits.

24 (2) "Substitute care provider" means a child-care
25 institution or child-placing agency, as defined by Section 42.002,
26 Human Resources Code.

27 (3) "Substitute care services" means services

1 provided to or for children in substitute care, including the
2 recruitment, training, and management of foster parents, the
3 recruitment of adoptive families, and the facilitation and
4 processing of adoptions. The term does not include case management
5 services.

6 (b) The department shall:

7 (1) assess the need for substitute care services
8 throughout the state for children for whom the department has been
9 appointed temporary or permanent managing conservator; and

10 (2) contract with substitute care providers [~~only to~~
11 ~~the extent necessary to meet the need~~] for the [~~those~~] services
12 described by Subdivision (1).

13 [~~(b) Before contracting with a substitute care provider,~~
14 ~~the department shall determine whether:~~

15 [~~(1) community resources are available to support~~
16 ~~children placed under the provider's care; and~~

17 [~~(2) the appropriate public school district has~~
18 ~~sufficient resources to support children placed under the~~
19 ~~provider's care if the children will attend public school.]~~

20 (c) In addition to contracts required by Subsection (b), the
21 department shall contract with substitute care providers to provide
22 case management services for children in substitute care for whom
23 the department has been appointed permanent managing conservator.

24 (d) The department shall:

25 (1) monitor the quality of services for which the
26 department contracts under this section; and

27 (2) ensure that the services are provided in

1 accordance with federal law and the laws of this state, including
2 department rules and rules of the Department of State Health
3 Services and the Texas Commission on Environmental Quality.

4 (e) In addition to the requirements of Section 40.058(b),
5 Human Resources Code, a contract with a substitute care provider
6 must include provisions that:

7 (1) enable the department to monitor the effectiveness
8 of the provider's services; ~~and~~

9 (2) specify performance criteria; and

10 (3) authorize the department to terminate the contract
11 or impose sanctions for a violation of a provision of the contract
12 that specifies performance criteria.

13 (f) The department must include caseworker-child visits in
14 the performance criteria under Subsection (e)(2) in a contract
15 required by Subsection (c). The department shall establish
16 guidelines and documentation requirements for those visits.

17 (g) ~~(d)~~ In determining whether to contract with a
18 substitute care provider, the department shall consider the
19 provider's performance under any previous contract for substitute
20 care services or case management services between the department
21 and the provider.

22 (h) A contract under this section does not affect the rights
23 and duties of the department in the department's capacity as the
24 temporary or permanent managing conservator of a child.

25 (i) Notwithstanding any other law, on and after September 1,
26 2008, the department may not directly provide:

27 (1) substitute care services for children for whom the

1 department has been appointed temporary or permanent managing
2 conservator; or

3 (2) case management services for children in
4 substitute care for whom the department has been appointed
5 permanent managing conservator.

6 ~~[(c) In this section, "substitute care provider" means a~~
7 ~~person who provides residential care for children for 24 hours a~~
8 ~~day, including:~~

9 ~~[(1) a child-care institution, as defined by Section~~
10 ~~42.002, Human Resources Code;~~

11 ~~[(2) a child-placing agency, as defined by Section~~
12 ~~42.002, Human Resources Code;~~

13 ~~[(3) a foster group home or foster family home, as~~
14 ~~defined by Section 42.002, Human Resources Code; and~~

15 ~~[(4) an agency group home or agency home, as defined by~~
16 ~~Section 42.002, Human Resources Code, other than an agency group~~
17 ~~home, agency home, or a foster home verified or certified by the~~
18 ~~department.]~~

19 (b) The executive commissioner of the Health and Human
20 Services Commission shall adopt a substitute care and case
21 management services transition plan and rules to implement Section
22 264.106, Family Code, as amended by this section. The transition
23 plan must provide that:

24 (1) as soon as possible after September 1, 2005, the
25 Department of Family and Protective Services shall begin
26 implementing Section 264.106, Family Code, as amended by this
27 section; and

1 (2) on and after September 1, 2008:

2 (A) all substitute care services, as defined by
3 Section 264.106(a), Family Code, as amended by this Act, for
4 children for whom the department has been appointed temporary or
5 permanent managing conservator and all case management services,
6 including caseworker-child visits, for children for whom the
7 department has been appointed permanent managing conservator must
8 be provided by child-care institutions and child-placing agencies
9 with which the department contracts; and

10 (B) notwithstanding any other law, the
11 department may not directly provide those services.

12 (c) The change in law made by Section 264.106, Family Code,
13 as amended by this section, applies only to a contract for
14 substitute care services or case management services that is
15 entered into or renewed on or after the effective date of this
16 section. A contract that is entered into or renewed before the
17 effective date of this section is governed by the law in effect on
18 the date the contract was entered into or renewed, and the former
19 law is continued in effect for that purpose.

20 SECTION 1.20. SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES
21 TRANSITION TASK FORCE. (a) The substitute care and case management
22 services transition task force shall:

23 (1) review the substitute care and case management
24 services transition plan and rules adopted by the executive
25 commissioner of the Health and Human Services Commission under this
26 Act;

27 (2) monitor the implementation of Section 264.106,

1 Family Code, as amended by this Act, by the Department of Family and
2 Protective Services; and

3 (3) make recommendations to the department to
4 facilitate the implementation of Section 264.106, Family Code, as
5 amended by this Act.

6 (b) The task force is composed of three members, appointed
7 as follows:

8 (1) one member appointed by the lieutenant governor;

9 (2) one member appointed by the speaker of the house of
10 representatives; and

11 (3) one member appointed by the comptroller.

12 (c) The member appointed under Subsection (b)(3) of this
13 section serves as the presiding officer.

14 (d) The task force shall meet at least monthly.

15 (e) Not later than the 31st day after the date the
16 Department of Family and Protective Services receives a
17 recommendation under Subsection (a)(3) of this section, the
18 department shall implement the recommendation or, if necessary, the
19 executive commissioner of the Health and Human Services Commission
20 shall initiate rulemaking procedures to adopt rules to implement
21 the recommendation.

22 (f) At least quarterly, the task force shall submit a report
23 to the lieutenant governor, the speaker of the house of
24 representatives, and the Legislative Budget Board regarding the
25 status of the implementation of Section 264.106, Family Code, as
26 amended by this Act.

27 (g) This section expires and the task force is abolished

1 August 31, 2008.

2 SECTION 1.21. Section 264.1075, Family Code, is amended to
3 read as follows:

4 Sec. 264.1075. ASSESSING THE NEEDS OF A CHILD [~~USE OF~~
5 ~~ASSESSMENT SERVICES~~]. (a) As soon as possible after a child begins
6 receiving foster care under this subchapter, the department shall
7 assess whether the child has a developmental disability or mental
8 retardation. The commission shall establish the procedures that
9 the department must use in making an assessment under this
10 subsection. The procedures may include screening or participation
11 by:

12 (1) a private person experienced in the developmental
13 disabilities or mental retardation of children; or

14 (2) a local mental retardation authority.

15 (b) Before placing a child in substitute care, the
16 department shall use assessment services provided by a child-care
17 facility or child-placing agency in accordance with Section
18 42.0425, Human Resources Code, to determine the appropriate
19 substitute care for the child.

20 SECTION 1.22. Subchapter B, Chapter 264, Family Code, is
21 amended by adding Section 264.1076 to read as follows:

22 Sec. 264.1076. FOSTER CARE DEVELOPMENTAL DISABILITIES
23 ADVISORY COMMITTEE. (a) The Foster Care Developmental
24 Disabilities Advisory Committee shall advise the department on
25 issues relating to the care of foster children with developmental
26 disabilities or mental retardation, including effective methods
27 for:

1 (1) minimizing the number of foster children placed in
2 institutions and maximizing the number of foster children receiving
3 community-based care;

4 (2) training and supporting persons who provide foster
5 care in a residential setting on issues relating to the particular
6 needs of children with developmental disabilities or mental
7 retardation;

8 (3) training employees of the department to promptly
9 identify foster children with developmental disabilities or mental
10 retardation;

11 (4) monitoring the care provided in residential
12 settings to foster children with developmental disabilities or
13 mental retardation;

14 (5) recruiting individuals to provide foster care in a
15 residential setting to children with developmental disabilities or
16 mental retardation; and

17 (6) contracting with persons to care for foster
18 children with developmental disabilities or mental retardation.

19 (b) The executive commissioner shall determine the number
20 of persons who serve on the committee.

21 (c) The executive commissioner shall appoint the members of
22 the committee and determine each member's length of service. In
23 making appointments to the committee, the executive commissioner
24 shall attempt to include:

25 (1) representatives of the commission and other
26 relevant state agencies;

27 (2) providers of services to persons with

1 developmental disabilities or mental retardation;

2 (3) persons who formerly received care under this
3 subchapter as foster children;

4 (4) persons with expertise about developmental
5 disabilities or mental retardation;

6 (5) persons who advocate for the rights of children
7 with developmental disabilities or mental retardation; and

8 (6) persons related to children with developmental
9 disabilities or mental retardation.

10 (d) Chapter 2110, Government Code, does not apply to the
11 committee.

12 (e) The commission or the department may pay any expenses
13 incurred by the committee.

14 SECTION 1.23. Subchapter B, Chapter 264, Family Code, is
15 amended by adding Section 264.1095 to read as follows:

16 Sec. 264.1095. CHILD SUPPORT. Unless the department has
17 been assigned support rights under Section 264.109, the department
18 shall file suit for child support under Section 154.001(b) for a
19 child for whom the department has been named temporary managing
20 conservator.

21 SECTION 1.24. (a) Subchapter B, Chapter 264, Family Code,
22 is amended by adding Section 264.116 to read as follows:

23 Sec. 264.116. TEXAS FOSTER GRANDPARENTS PROGRAM. (a) The
24 department shall work with volunteer and advocacy organizations
25 from the community to develop and implement a statewide foster
26 grandparents program that:

27 (1) recruits volunteers who are senior citizens; and

1 (2) encourages the volunteers to serve as mentors to
2 children who reside in a residential child-care facility.

3 (b) From funds available for that purpose, the department
4 may reimburse volunteers for actual and necessary expenses incurred
5 while participating in the program, including travel expenses. The
6 executive commissioner by rule shall develop guidelines for the
7 reimbursement of expenses under the program.

8 (c) A volunteer who participates in the program is subject
9 to state and national criminal background checks in accordance with
10 Sections 411.087 and 411.114, Government Code.

11 (d) The department shall require foster parents or
12 employees of residential child-care facilities to provide
13 appropriate supervision over volunteers during their participation
14 in the program.

15 (e) The program is subject to Chapter 2109, Government Code.

16 (b) The Department of Family and Protective Services shall
17 implement the statewide foster grandparents program required by
18 Section 264.116, Family Code, as added by this section, not later
19 than June 1, 2006.

20 SECTION 1.25. Subchapter B, Chapter 264, Family Code, is
21 amended by adding Section 264.117 to read as follows:

22 Sec. 264.117. MEDICAL PASSPORT. (a) The department shall
23 develop a medical passport for each foster child. The department
24 shall determine the format of the passport. The passport may be
25 maintained in an electronic format. The medical passport must
26 include:

27 (1) the name and addresses of the child's health care

1 and educational providers;

2 (2) the child's grade level performance;

3 (3) an immunization record;

4 (4) a list of the child's known medical problems;

5 (5) information on all medications prescribed to the
6 child; and

7 (6) any other medical or educational history that the
8 department determines is important.

9 (b) The child or the child's caretaker shall present the
10 passport during each physician or therapist visit to ensure that
11 the physician or therapist has a complete record of the child's
12 medical treatment.

13 (c) The passport shall be part of the department's record
14 for the child as long as the child remains in foster care. The
15 passport shall remain with the child as the child changes
16 placements, physicians, or therapists.

17 (d) The department shall develop a procedure for
18 maintaining and updating medical passports.

19 (e) The department shall work with stakeholder groups to
20 create the medical passport.

21 SECTION 1.26. Subchapter B, Chapter 264, Family Code, is
22 amended by adding Section 264.118 to read as follows:

23 Sec. 264.118. PREPARATION FOR ADULT LIVING PROGRAM. (a)
24 The department shall enter into cooperative agreements with the
25 Texas Workforce Commission and local workforce development boards
26 to facilitate the effectiveness of the Preparation for Adult Living
27 Program operated by the department. The department, the Texas

1 Workforce Commission, and the local boards shall maintain one-stop
2 centers for foster care children to obtain services under the
3 program.

4 (b) The department may enter into an agreement with any
5 private person to facilitate the effectiveness of the program,
6 including maintenance of the one-stop centers described in
7 Subsection (a).

8 SECTION 1.27. Subchapter C, Chapter 264, Family Code, is
9 amended by adding Section 264.204 to read as follows:

10 Sec. 264.204. COMMUNITY-BASED FAMILY SERVICES. (a) The
11 department shall administer a grant program to provide funding to
12 community organizations, including faith-based organizations, to
13 respond to low-priority, less serious cases of abuse and neglect.

14 (b) The executive commissioner shall adopt rules to
15 implement the grant program, including rules governing the
16 submission and approval of grant requests and the cancellation of
17 grants.

18 (c) To receive a grant, a community organization whose grant
19 request is approved must execute an interagency agreement or a
20 contract with the department. The contract must require the
21 organization receiving the grant to perform the services as stated
22 in the approved grant request. The contract must contain
23 appropriate provisions for program and fiscal monitoring.

24 (d) In areas of the state in which community organizations
25 receive grants under the program, the department shall refer
26 low-priority, less serious cases of abuse and neglect to a
27 community organization receiving a grant under the program.

1 (b) A psychotropic drug may not be prescribed to a child in
2 foster care who is younger than six years of age unless the court
3 approves the use of psychotropic drugs for the child. For the
4 purpose of this section, it is a rebuttable presumption that
5 psychotropic medication is inappropriate for a child in foster care
6 who is younger than six years of age.

7 (c) A psychotropic drug may not be prescribed to a child in
8 foster care who is 16 years of age or older unless the child
9 consents to the use of the psychotropic drug. If the child refuses
10 to consent, a psychotropic drug may be prescribed for the child only
11 if the court approves the use of the psychotropic drug.

12 (d) Before starting any prescribed psychotropic drug, a
13 foster child and the child's caretakers shall be provided
14 information on the drug in accordance with the guidelines of the
15 American Academy of Child and Adolescent Psychiatry, including:

16 (1) the name of the drug and whether it is known by
17 other names;

18 (2) what is known about the drug's helpfulness with
19 other children who have a similar condition;

20 (3) how the drug will help the child;

21 (4) how long it will take before the child's condition
22 begins to improve;

23 (5) how long it will take for the drug to be fully
24 effective;

25 (6) the side effects that commonly occur with the
26 drug;

27 (7) the rare or serious side effects, if any, that may

1 occur with the drug;

2 (8) whether the drug is addictive and whether it can be
3 abused;

4 (9) the drug's recommended dosage and how often it will
5 be taken;

6 (10) whether there are laboratory tests, such as heart
7 tests and blood tests, that need to be administered before the child
8 begins taking the drug or while the child is taking the drug;

9 (11) whether a child or adolescent psychiatrist will
10 be monitoring the child's response to the drug and making dosage
11 changes if necessary;

12 (12) how often the child's progress will be checked and
13 by whom;

14 (13) other medications or foods the child should avoid
15 while taking the medication;

16 (14) whether there are interactions between the drug
17 and other prescription or over-the-counter medications that the
18 child is taking;

19 (15) activities that the child should avoid while
20 taking the drug and precautions recommended for other activities;

21 (16) how long the child will need to take the drug and
22 how the decision to stop administering the drug will be made;

23 (17) what to do if a problem develops, such as the
24 child becoming ill, missing a dose of the drug, or developing side
25 effects;

26 (18) the cost of the drug, including a comparison of
27 the costs of the generic drug and the brand name drug, if

1 applicable; and

2 (19) whether the child's school nurse should be
3 informed about the drug.

4 Sec. 264.753. REVIEW OF PSYCHOTROPIC DRUG PRESCRIPTION
5 PATTERNS. (a) As part of the drug utilization review program under
6 Section 531.302, Government Code, the commission's office of
7 inspector general annually shall review the psychotropic
8 medication prescribing patterns of psychiatrists and other health
9 care providers. The inspector general shall identify those health
10 care providers who annually write more than the average number of
11 psychotropic drug prescriptions for children in foster care.

12 (b) The commission shall determine the average number of
13 psychotropic drug prescriptions written for children in foster care
14 using Medicaid prescription data for the fiscal year preceding the
15 year in which the office conducts the review.

16 Sec. 264.754. PSYCHOTROPIC DRUG REVIEW TEAMS; OFFENSE. (a)
17 The department shall establish review teams to evaluate the
18 administration of psychotropic drugs to children in foster care.
19 The department may create one or more review teams for each region
20 of the department for child protective services.

21 (b) Review team members are appointed by the governor and
22 serve staggered two-year terms. Members of a review team must be
23 individuals from the region for which the team is established,
24 including:

- 25 (1) pharmacists or pharmacologists;
26 (2) child and adolescent psychiatrists;
27 (3) primary care physicians or neurologists;

1 (4) representatives of the department; and

2 (5) representatives of foster parents' groups.

3 (c) A review team shall review the records of:

4 (1) each child in foster care receiving:

5 (A) three or more psychotropic drugs; or

6 (B) two or more psychotropic drugs in the same
7 class; and

8 (2) children from a random sampling of children in
9 foster care receiving psychotropic drugs.

10 (d) A review team shall report to the department the results
11 of the team's review. The review team's report may not include
12 confidential information.

13 (e) A member of a review team commits an offense if the
14 member discloses confidential information. An offense under this
15 subsection is a Class C misdemeanor.

16 SECTION 1.29. (a) The Department of Family and Protective
17 Services shall study the level of care system the department uses to
18 determine a child's foster care needs to ascertain whether the
19 system creates incentives for prescribing psychotropic medications
20 to children in foster care.

21 (b) Not later than October 1, 2006, the department shall
22 report the results of the study to the legislature. The report must
23 include the department's proposed changes to the level of care
24 system.

25 (c) This section expires January 1, 2007.

26 SECTION 1.30. (a) Subchapter B, Chapter 531, Government
27 Code, is amended by adding Section 531.078 to read as follows:

1 Sec. 531.078. POOLED FUNDING FOR FOSTER CARE PREVENTIVE
2 SERVICES. (a) The commission and the Department of Family and
3 Protective Services shall develop and implement a plan to combine,
4 to the extent and in the manner allowed by Section 51, Article III,
5 Texas Constitution, and other applicable law, funds of those
6 agencies with funds of other appropriate state agencies and local
7 governmental entities to provide services designed to prevent
8 children from being placed in foster care. The preventive services
9 may include:

- 10 (1) child and family counseling;
11 (2) instruction in parenting and homemaking skills;
12 (3) parental support services;
13 (4) temporary respite care; and
14 (5) crisis services.

15 (b) The plan must provide for:

16 (1) state funding to be distributed to other state
17 agencies, local governmental entities, or private entities only as
18 specifically directed by the terms of a grant or contract to provide
19 preventive services;

20 (2) procedures to ensure that funds received by the
21 commission by gift, grant, or interagency or interlocal contract
22 from another state agency, a local governmental entity, the federal
23 government, or any other public or private source for purposes of
24 this section are disbursed in accordance with the terms under which
25 the commission received the funds; and

26 (3) a reporting mechanism to ensure appropriate use of
27 funds.

1 (c) For the purposes of this section, the commission may
2 request and accept gifts and grants under the terms of a gift,
3 grant, or contract from a local governmental entity, a private
4 entity, or any other public or private source for use in providing
5 services designed to prevent children from being placed in foster
6 care. If required by the terms of a gift, grant, or contract or by
7 applicable law, the commission shall use the amounts received:

8 (1) from a local governmental entity to provide the
9 services in the geographic area of this state in which the entity is
10 located; and

11 (2) from the federal government or a private entity to
12 provide the services statewide or in a particular geographic area
13 of this state.

14 (b) Not later than November 1, 2006, the Health and Human
15 Services Commission shall provide to the governor and the
16 Legislative Budget Board a report on the status and progress of the
17 preventive services funding plan required by Section 531.078,
18 Government Code, as added by this section.

19 SECTION 1.31. (a) Subchapter C, Chapter 2155, Government
20 Code, is amended by adding Section 2155.1442 to read as follows:

21 Sec. 2155.1442. FOSTER CARE RESIDENTIAL CONTRACT
22 MANAGEMENT. (a) The state auditor shall conduct a management
23 review of the residential contract management employees of the
24 Health and Human Services Commission and the Department of Family
25 and Protective Services and make recommendations regarding the
26 organization of, and skills and educational requirements for, those
27 employees. The state auditor shall also make recommendations

1 regarding the implementation of financial accountability
2 provisions and processes to ensure effective and efficient
3 expenditure of state and other contract funds. The state auditor
4 shall report annually to the governor, the lieutenant governor, the
5 speaker of the house of representatives, and the comptroller on the
6 auditor's recommendations and the commission's and department's
7 implementation of each recommendation.

8 (b) The Health and Human Services Commission, in
9 coordination with the state auditor, shall perform complete on-site
10 financial audits of selected residential contractors as necessary.
11 The state auditor shall select the contractors based on the
12 contract's risk assessment rating, allegations of fraud or misuse
13 of state or other contract funds, or other appropriate audit
14 selection criteria. The state auditor shall include findings from
15 the on-site financial audits in the annual report to the governor
16 and other representatives of the state required by Subsection (a).
17 In addition, the state auditor shall immediately report to the
18 governor and each person listed in Subsection (a) any findings of
19 fraud or other misuse of state or other contract funds.

20 (c) The Department of Family and Protective Services may
21 develop an Internet-based system to enable residential contractors
22 to review their reimbursement accounts or other pertinent financial
23 data and reconcile their accounts.

24 (b) Section 2155.1442, Government Code, as added by this
25 section, applies only to a contract that is entered into or renewed
26 on or after the effective date of this section. A contract entered
27 into or renewed before that date is governed by the law in effect on

1 the date the contract is entered into or renewed, and the former law
2 is continued in effect for that purpose.

3 (c) Not later than December 1, 2005, the state auditor shall
4 complete and publish the management review and report required by
5 Sections 2155.1442(a) and (b), Government Code, as added by this
6 section.

7 (d) Not later than October 1, 2005, the Health and Human
8 Services Commission, in coordination with the state auditor, shall
9 begin the on-site financial reviews of selected contractors
10 required by Section 2155.1442(b), Government Code, as added by this
11 section.

12 SECTION 1.32. (a) Section 32.055, Human Resources Code, is
13 amended to read as follows:

14 Sec. 32.055. CATASTROPHIC CASE MANAGEMENT. (a) In this
15 section, "medically fragile child" means a child who:

16 (1) is under 21 years of age;

17 (2) has a serious, chronic illness or condition that:

18 (A) has continued, or is anticipated to continue,
19 at least 12 months;

20 (B) requires daily hospitalization or has
21 required at least one month of hospitalization;

22 (C) requires ongoing medical treatment and
23 monitoring by appropriately trained personnel, including a parent
24 or other family member; and

25 (D) presents an ongoing threat to the child's
26 well-being; and

27 (3) requires the routine use of a medical device or the

1 use of assistive technology to compensate for the loss of a bodily
2 function necessary to participate in an activity of daily life.

3 (b) The department shall develop and implement a
4 catastrophic case management system to be used in providing medical
5 assistance to persons with catastrophic health problems, including
6 medically fragile children under the conservatorship of the
7 Department of Family and Protective Services who are placed in
8 foster care.

9 (c) [~~(b)~~] The system must provide for the assignment of a
10 case manager to a recipient of medical assistance with catastrophic
11 health problems that are likely to:

12 (1) require the services of multiple, specialized
13 health care providers; and

14 (2) result in major medical costs.

15 (d) [~~(c)~~] The department shall identify the services to be
16 provided by a case manager assigned under the system. The services
17 must include assessment of the recipient's needs and coordination
18 of all available medical services and payment options. The
19 services may include other support services such as:

20 (1) assistance with making arrangements to receive
21 care from medical facilities;

22 (2) assistance with travel and lodging in connection
23 with receipt of medical care;

24 (3) education of the recipient and the recipient's
25 family members or foster parent, as applicable, regarding the
26 nature of the recipient's health problems;

27 (4) referral to appropriate support groups; and

1 (5) any other service likely to result in better care
2 provided in a cost-effective manner.

3 (e) In implementing the system for medically fragile
4 children, the department shall coordinate with the Department of
5 Family and Protective Services and may contract with children's
6 hospitals or other health care providers to provide case management
7 services to foster children.

8 (f) [(d)] Not later than January 15 of each odd-numbered
9 year, the department shall report to the legislature on the
10 implementation of the system. The report must include a statement
11 of:

12 (1) the number of recipients of medical assistance who
13 received catastrophic case management services under the system
14 during the preceding two years; and

15 (2) the estimated savings under the medical assistance
16 program resulting from implementation of the system during the
17 preceding two years.

18 (b) Not later than January 1, 2006, the Health and Human
19 Services Commission shall implement the catastrophic case
20 management system for medically fragile children required by
21 Section 32.055, Human Resources Code, as amended by this section.

22 SECTION 1.33. The heading to Chapter 40, Human Resources
23 Code, is amended to read as follows:

24 CHAPTER 40. DEPARTMENT OF FAMILY AND PROTECTIVE [~~AND REGULATORY~~]
25 SERVICES

26 SECTION 1.34. Section 40.001(3), Human Resources Code, is
27 amended to read as follows:

1 (3) "Department" means the Department of Family and
2 Protective [~~and Regulatory~~] Services.

3 SECTION 1.35. Subchapter A, Chapter 40, Human Resources
4 Code, is amended by adding Section 40.009 to read as follows:

5 Sec. 40.009. QUALITY ASSURANCE PROGRAM AND QUARTERLY
6 REPORTS. (a) The department shall develop and implement an
7 independent quality assurance program for child protective
8 services provided by or on behalf of the department.

9 (b) The program must include periodic audits of the
10 completeness and accuracy of investigatory and inspection-related
11 reports prepared or required by the department, including:

12 (1) reports of investigations of child abuse and
13 neglect;

14 (2) reports relating to children placed in foster
15 care; and

16 (3) reports relating to the licensing and inspection
17 of residential child-care facilities.

18 (c) An audit must be conducted in accordance with
19 professional standards and generally recognized sampling
20 techniques.

21 (d) The department shall retain the results of an audit
22 conducted under this section until at least the fifth anniversary
23 of the date the audit is completed.

24 (e) Each quarter the department shall file with the governor
25 and the presiding officer of each house of the legislature a
26 detailed written report assessing the delivery of child protective
27 services and examining the outcomes for children and families

1 served by child protective programs, foster care programs, adoption
2 programs, and other related programs in this state.

3 (f) The report required by Subsection (e) must include:

4 (1) a summary of the audits conducted under this
5 section during the preceding quarter; and

6 (2) a summary of the department's performance during
7 the preceding quarter on the most recent standards used by the
8 federal government to evaluate state child and family services
9 programs with regard to child safety, permanency, and well-being.

10 SECTION 1.36. (a) Subchapter A, Chapter 40, Human
11 Resources Code, is amended by adding Section 40.010 to read as
12 follows:

13 Sec. 40.010. PROTECTIVE SERVICES LEGISLATIVE OVERSIGHT
14 COMMITTEE. (a) The Protective Services Legislative Oversight
15 Committee is created to:

16 (1) facilitate the reformation of powers, duties,
17 functions, programs, and activities of the department; and

18 (2) monitor the effectiveness and efficiency of the
19 services provided by the department.

20 (b) The committee is composed of 14 members as follows:

21 (1) four members of the senate, appointed by the
22 lieutenant governor;

23 (2) four members of the house of representatives,
24 appointed by the speaker of the house of representatives; and

25 (3) six members of the public, appointed by the
26 governor as follows:

27 (A) one member with experience in a child-placing

1 agency;

2 (B) one member with experience in a foster family
3 association;

4 (C) one member with experience in a guardianship
5 program;

6 (D) one member with experience in mental health
7 care; and

8 (E) two members with experience in law
9 enforcement.

10 (c) The commissioner serves as an ex officio member of the
11 committee.

12 (d) A member of the committee serves at the pleasure of the
13 appointing official.

14 (e) The lieutenant governor and the speaker of the house of
15 representatives shall alternate designating a presiding officer
16 for a term of one year from among their respective appointments.

17 (f) A member of the committee may not receive compensation
18 for serving on the committee but is entitled to reimbursement for
19 travel expenses incurred by the member while conducting the
20 business of the committee as provided by the General Appropriations
21 Act.

22 (g) In addition to performing the duties prescribed by
23 Subsection (a), the committee shall:

24 (1) with assistance from the department and the
25 commission, advise the commissioner concerning the powers, duties,
26 functions, programs, and activities of the department and the funds
27 and obligations that are related to the powers, duties, functions,

1 programs, or activities;

2 (2) meet at the call of the presiding officer;

3 (3) research, take public testimony, and issue reports
4 on other appropriate issues or specific issues requested by the
5 lieutenant governor, speaker, or governor; and

6 (4) review specific recommendations for legislation
7 proposed by the department or commission.

8 (h) The committee may request reports and other information
9 from the commission, the department, and the attorney general
10 relating to protective services in this state and other appropriate
11 issues.

12 (i) The committee shall use existing staff of the senate and
13 house of representatives to assist the committee in performing its
14 duties under this section.

15 (j) Chapter 551, Government Code, applies to the committee.

16 (k) The committee shall report to the governor, the
17 lieutenant governor, and the speaker of the house of
18 representatives not later than November 15 of each even-numbered
19 year. The report must include:

20 (1) identification of significant issues in the
21 protective services system, with recommendations for action;

22 (2) an analysis of the effectiveness and efficiency of
23 the protective services system, with recommendations for any
24 necessary research; and

25 (3) recommendations for legislative action.

26 (b) The speaker, the lieutenant governor, and the governor
27 shall appoint the members of the Protective Services Legislative

1 Oversight Committee created by Section 40.010, Human Resources
2 Code, as added by this section, as soon as possible after the
3 effective date of this section. The lieutenant governor shall
4 designate the initial presiding officer of the committee. The
5 presiding officer shall call the initial meeting of the committee
6 as soon as possible after the committee members are appointed.

7 SECTION 1.37. (a) Subchapter B, Chapter 40, Human
8 Resources Code, is amended by adding Section 40.0322 to read as
9 follows:

10 Sec. 40.0322. CASEWORKER REPLACEMENT PROGRAM. (a) To the
11 extent that funding is available, the department shall develop a
12 program to provide for the timely replacement of caseworkers with
13 trainees hired in anticipation of vacancies.

14 (b) In developing the program, the department shall
15 consider the turnover rate for caseworkers by region.

16 (b) Unless sufficient funds are not available, the
17 Department of Family and Protective Services shall develop the
18 program required under Section 40.0322, Human Resources Code, as
19 added by this section, not later than December 31, 2005.

20 SECTION 1.38. (a) Section 40.058, Human Resources Code, is
21 amended by amending Subsections (b) and (c) and adding Subsections
22 (f)-(i) to read as follows:

23 (b) A contract for the purchase of program-related client
24 services must include:

25 (1) clearly defined goals and outcomes that can be
26 measured to determine whether the objectives of the program are
27 being achieved;

1 (2) clearly defined sanctions or penalties for
2 noncompliance with contract terms; ~~and~~

3 (3) clearly specified accounting, reporting, and
4 auditing requirements applicable to money received under the
5 contract; and

6 (4) if applicable, clearly defined performance
7 standards that relate directly to the quality of care provided to
8 residents of foster care facilities.

9 (c) The department shall monitor a contractor's performance
10 under a contract for the purchase of program-related client
11 services. In monitoring performance, the department shall:

12 (1) use a risk-assessment methodology to ensure
13 compliance with financial and performance requirements under the
14 contract; ~~and~~

15 (2) obtain and evaluate program cost information to
16 ensure that all costs, including administrative costs, are
17 reasonable and necessary to achieve program objectives; and

18 (3) review each foster care services contract and
19 evaluate the contract for compliance with the performance standards
20 of the contract prescribed by Subsection (b)(4).

21 (f) The department shall terminate a contract with a foster
22 care services provider if the contractor does not meet the
23 performance standards prescribed by Subsection (b)(4). The
24 department may not award or renew a foster care services contract
25 with a contractor if the contractor does not meet those performance
26 standards.

27 (g) The commission shall create a foster care performance

1 team to develop performance criteria for foster care services
2 contracts. The team shall include contracting experts from
3 multiple state agencies, foster care services providers and
4 clients, performance-based contract experts of the state auditor,
5 and other experts in outcome-based contracts. The team shall
6 develop clearly defined and measurable standards for foster care
7 services contracts that directly relate to factors within the
8 control of the providers. The department shall adopt the clearly
9 defined performance standards for inclusion in foster care services
10 contracts as developed and recommended by the team. The team shall
11 also develop performance standards that provide measurable
12 criteria for identification of foster care services providers:

13 (1) that do not provide quality care;

14 (2) that should not receive additional contract
15 awards; and

16 (3) whose contracts should be revoked.

17 (h) The commission shall create an alternative payment plan
18 in all foster care services contracts to encourage the reduction of
19 the period that children are in intensive levels of care. The
20 incentive payment plan must provide several alternative payment
21 mechanisms to encourage foster care services contractors to improve
22 the quality of care, encourage efficient use of funding, or reduce
23 the period of intensive care for children under program-related
24 client services contracts for foster care.

25 (i) A contract for the provision of foster care services
26 must contain a provision requiring the department's contract
27 management employees to make periodic unannounced visits to the

1 contractor's facilities in accordance with commission rules and to
2 report the employees' findings to the commission.

3 (b) Sections 40.058(b)(4), (c)(3), (f), (g), and (i), Human
4 Resources Code, as added by this section, apply only to a contract
5 entered into or renewed on or after the effective date of this
6 section. A contract entered into or renewed before that date is
7 governed by the law in effect on the date the contract is entered
8 into or renewed, and the former law is continued in effect for that
9 purpose.

10 SECTION 1.39. (a) Subchapter C, Chapter 40, Human
11 Resources Code, is amended by adding Section 40.071 to read as
12 follows:

13 Sec. 40.071. MISSING CHILDREN WEBSITE. (a) The department
14 shall develop and implement a program to display on the
15 department's Internet website the name, age, and photograph of, and
16 location information relating to, any child in the foster care
17 system who has been reported missing. The department may also
18 display other relevant information that the department determines
19 will be useful in efforts to locate and ensure the safety of that
20 child.

21 (b) Notwithstanding any other law, information required to
22 be provided under this section is public information.

23 (c) The department shall regularly update the website by
24 adding additional information that becomes available and by
25 deleting the information relating to a child who is no longer
26 missing.

27 (b) Not later than January 1, 2006, the executive

1 commissioner of the Health and Human Services Commission shall
2 adopt rules and establish standards, policies, and procedures to
3 implement and administer Section 40.071, Human Resources Code, as
4 added by this section.

5 SECTION 1.40. Section 42.002, Human Resources Code, is
6 amended by adding Subdivision (18) to read as follows:

7 (18) "Residential child-care facility" means a
8 facility licensed or certified by the department to provide
9 assessment, care, training, education, custody, treatment, or
10 supervision for a child who is not related by blood, marriage, or
11 adoption to the owner or operator of the facility, for all of the
12 24-hour day, whether or not the facility is operated for profit or
13 charges for the services it offers. The term includes child-care
14 institutions, foster group homes, foster homes, agency foster group
15 homes, and agency foster homes.

16 SECTION 1.41. (a) Section 42.042, Human Resources Code, is
17 amended by adding Subsection (q) to read as follows:

18 (q) Each residential child-care facility shall notify the
19 department and the appropriate local law enforcement agency
20 immediately on determining that a child is missing from the
21 facility.

22 (b) Not later than January 1, 2006, the executive
23 commissioner of the Health and Human Services Commission shall
24 adopt rules and establish standards, policies, and procedures to
25 implement and administer Section 42.042(q), Human Resources Code,
26 as added by this section.

27 SECTION 1.42. (a) Section 42.056, Human Resources Code, is

1 amended by adding Subsections (a-1) and (d)-(f) and amending
2 Subsection (b) to read as follows:

3 (a-1) In accordance with rules adopted by the executive
4 commissioner, the director, owner, or operator of a residential
5 child-care facility shall submit to the department for use in
6 conducting background and criminal history checks the name of each
7 prospective employee who will provide direct care or have direct
8 access to a child in the residential child-care facility.

9 (b) The department shall conduct background and criminal
10 history checks using:

11 (1) the information provided under Subsections
12 [Subsection] (a) and (a-1);

13 (2) the information made available by the Department
14 of Public Safety under Section 411.114, Government Code, and ~~[or]~~
15 by the Federal Bureau of Investigation or other criminal justice
16 agency under Section 411.087, Government Code; and

17 (3) the department's records of reported abuse and
18 neglect.

19 (d) A person described by Subsection (a) or (a-1) may not
20 provide direct care or have direct access to a child in a
21 residential child-care facility before completion of the person's
22 background check and criminal history check.

23 (e) The department shall provide the results of a background
24 or criminal history check conducted under this section regarding a
25 prospective employee to a director, owner, or operator of a
26 residential child-care facility.

27 (f) As part of a background check under this section, the

1 department shall provide any relevant information available in the
2 department's records regarding a person's previous employment in a
3 residential child-care facility to the person submitting the
4 request.

5 (b) The director, owner, or operator of a residential
6 child-care facility shall begin providing information to the
7 Department of Family and Protective Services as required by Section
8 42.056(a-1), Human Resources Code, as added by this section, as
9 soon as possible after the effective date of this section and not
10 later than January 1, 2006.

11 SECTION 1.43. (a) Subchapter C, Chapter 42, Human
12 Resources Code, is amended by adding Section 42.057 to read as
13 follows:

14 Sec. 42.057. DRUG TESTING. (a) Each residential
15 child-care facility shall establish a drug testing policy for
16 employees. A residential child-care facility may adopt the model
17 employee drug testing policy adopted by the executive commissioner
18 under Subsection (b) or may use another employee drug testing
19 policy approved by the executive commissioner.

20 (b) The executive commissioner by rule shall adopt a model
21 employee drug testing policy for use by a residential child-care
22 facility. The policy must be designed to ensure the safety of
23 resident children through appropriate drug testing of employees
24 while protecting the rights of employees. The model policy must
25 require random, unannounced drug testing and at least one scheduled
26 drug test each year of each employee who has direct contact with a
27 resident child in the residential child-care facility.

1 (c) The department shall require a drug test of a person who
2 directly cares for or has access to a child in a residential
3 child-care facility within 24 hours after the department receives
4 notice of an allegation that the person has abused drugs.

5 (d) An employee may not provide direct care or have direct
6 access to a child in a residential child-care facility before
7 completion of the employee's initial drug test.

8 (b) Not later than December 1, 2005, the executive
9 commissioner of the Health and Human Services Commission shall
10 adopt the model drug testing policy required by Section 42.057,
11 Human Resources Code, as added by this section.

12 (c) Not later than January 1, 2006, each residential
13 child-care facility shall adopt a drug testing policy required by
14 Section 42.057, Human Resources Code, as added by this section.

15 SECTION 1.44. (a) Subchapter C, Chapter 42, Human
16 Resources Code, is amended by adding Section 42.061 to read as
17 follows:

18 Sec. 42.061. RISK ASSESSMENT. (a) If an employee or
19 volunteer at a residential child-care facility has been convicted
20 of a crime, the department shall perform a risk assessment of the
21 person before the person is allowed access to a child in the
22 facility. The department shall also perform a similar risk
23 assessment of a person who is at least 14 years of age and who will
24 regularly or frequently be staying at the facility while children
25 are being provided care.

26 (b) The executive commissioner by rule shall develop and
27 maintain risk assessment criteria to ensure the safety and

1 well-being of a child's physical or mental health or welfare.

2 (b) Not later than January 1, 2006, the executive
3 commissioner of the Health and Human Services Commission shall
4 adopt rules required by Section 42.061, Human Resources Code, as
5 added by this section.

6 SECTION 1.45. Subchapter C, Chapter 42, Human Resources
7 Code, is amended by adding Section 42.062 to read as follows:

8 Sec. 42.062. CERTAIN EMPLOYMENT PROHIBITED. A residential
9 child-care facility may not employ in any capacity a person who is
10 not eligible to receive a license or certification for the
11 operation of a residential child-care facility under Section
12 42.072(c-1).

13 SECTION 1.46. Subchapter C, Chapter 42, Human Resources
14 Code, is amended by adding Section 42.063 to read as follows:

15 Sec. 42.063. REPORTING OF INCIDENTS AND VIOLATIONS. (a) In
16 this section, "serious incident" means a suspected or actual
17 incident that threatens or impairs the basic health, safety, or
18 well-being of a child. The term includes:

19 (1) the arrest, abuse, neglect, exploitation, running
20 away, attempted suicide, or death of a child;

21 (2) a critical injury of a child; and

22 (3) an illness of a child that requires
23 hospitalization.

24 (b) A person licensed under this chapter shall report to the
25 department:

26 (1) each serious incident involving a child who
27 receives services from the person, regardless of whether the

1 department is the managing conservator of the child; and

2 (2) any potential violation of a requirement of this
3 chapter.

4 (c) An employee of a person described by Subsection (b)
5 shall report suspected abuse or neglect directly to the statewide
6 intake system.

7 (d) An employee or volunteer of a child-care institution,
8 child-placing agency, foster home, or foster group home shall
9 report any serious incident directly to the department if the
10 incident involves a child under the care of the institution,
11 agency, or home.

12 (e) A foster parent shall report any serious incident
13 directly to the department if the incident involves a child under
14 the care of the parent.

15 (f) The executive commissioner by rule shall prescribe:

16 (1) procedures governing reporting required under
17 this section; and

18 (2) the manner in which a report under this section
19 must be provided.

20 SECTION 1.47. (a) Section 42.0705, Human Resources Code,
21 is amended to read as follows:

22 Sec. 42.0705. RANGE OF PENALTIES. (a) The department shall
23 revoke, suspend, or refuse to renew a license or registration,
24 place on probation a person whose license or registration has been
25 suspended, or reprimand a license holder or registration holder for
26 a violation of this chapter or a rule of the board.

27 (b) If a license or registration suspension is probated, the

1 department may require the license holder or registration holder
2 to:

3 (1) report regularly to the department on matters that
4 are the basis of the probation;

5 (2) limit services to the areas prescribed by the
6 department;

7 (3) continue or review professional education until
8 the license holder or registration holder attains a degree of skill
9 satisfactory to the department in those areas that are the basis of
10 the probation; or

11 (4) take corrective action relating to the violation
12 on which the probation is based.

13 (c) The executive commissioner by rule shall establish
14 gradations of penalties in accordance with the relative seriousness
15 of the violation. The rules shall prescribe the violations or
16 number of violations that will result in the department's
17 automatically revoking a facility's license, certification, or
18 registration under Section 42.072.

19 (d) In determining the penalty to impose, the department
20 shall consider any matter that justice may require, including:

21 (1) the gradations of penalties established under
22 Subsection (c);

23 (2) the seriousness of the violation, including the
24 nature, circumstances, extent, and gravity of the prohibited act
25 and the hazard or potential hazard created by the act to the health
26 or safety of a resident child;

27 (3) the history of previous violations;

1 (4) deterrence of future violations; and

2 (5) efforts to correct the violation.

3 (b) Not later than December 31, 2005, the executive
4 commissioner of the Health and Human Services Commission shall
5 establish the gradations of penalties required under Section
6 42.0705, Human Resources Code, as amended by this section.

7 SECTION 1.48. Section 42.072, Human Resources Code, is
8 amended by adding Subsection (c-1) to read as follows:

9 (c-1) Notwithstanding Subsection (c), the department shall
10 refuse to issue a license or certification for the operation of a
11 residential child-care facility to a person who previously held
12 more than a 20 percent ownership interest in or served as an
13 officer, director, board member, or administrator of a residential
14 child-care facility at the time of the occurrence of conduct that
15 resulted in:

16 (1) the license or certification of the facility being
17 revoked by the department or by court order; or

18 (2) the facility being voluntarily closed or its
19 license or certification relinquished after:

20 (A) the department took an action under
21 Subsection (a) in relation to the facility; or

22 (B) the facility received notice that the
23 department intended to take an action under Subsection (a) in
24 relation to the facility.

25 SECTION 1.49. AT-RISK PREVENTION SERVICES TASK FORCE. (a)
26 In this section:

27 (1) "Department" means the Department of Family and

1 Protective Services.

2 (2) "Executive commissioner" means the executive
3 commissioner of the Health and Human Services Commission.

4 (3) "Prevention service" means a community-based
5 prevention program to alleviate the conditions that lead to child
6 abuse or neglect and juvenile crime.

7 (4) "Task force" means the at-risk prevention services
8 task force established under this section.

9 (b) The at-risk prevention services task force is
10 established to create a strategic plan to improve the availability
11 of prevention services in this state and the manner in which those
12 services are provided.

13 (c) The task force is composed of seven members appointed by
14 the governor.

15 (d) Each member of the task force must have demonstrated
16 experience in the prevention of child abuse or neglect and juvenile
17 crime.

18 (e) The task force shall:

19 (1) examine the provision of prevention services in
20 this state and identify opportunities to coordinate service
21 delivery;

22 (2) identify federal, state, and community sources of
23 funding for prevention services and methods for combining resources
24 for those services; and

25 (3) create a strategic plan that would result in the
26 extension of prevention services to more at-risk families in this
27 state.

1 (f) The department shall provide administrative support and
2 services to the task force.

3 (g) Not later than September 1, 2006, the task force shall
4 present to the department and executive commissioner the strategic
5 plan created under Subsection (e) of this section.

6 (h) Not later than the 90th day after the date on which the
7 task force presents the strategic plan, the executive commissioner
8 shall submit to the governor, the lieutenant governor, the speaker
9 of the house of representatives, and the presiding officer of each
10 house and senate standing committee having jurisdiction over family
11 protective services a written report concerning the strategic plan
12 of the task force. The report shall include:

13 (1) recommendations for implementing the strategic
14 plan of the task force, if appropriate;

15 (2) recommendations for modifications to the
16 strategic plan of the task force; and

17 (3) recommendations for legislation that the task
18 force or executive commissioner considers necessary to implement
19 the strategic plan.

20 (i) This section expires and the task force is abolished
21 June 1, 2007.

22 SECTION 1.50. THINK TANK MEETING ON CHILD ABUSE AND NEGLECT
23 INVESTIGATIONS. Not later than January 1, 2006, the Department of
24 Family and Protective Services shall conduct a meeting with
25 employees of the department and law enforcement professionals who
26 have responsibility for investigating reports of child abuse and
27 neglect to explore standards for:

1 (1) training to be provided for personnel who conduct
2 investigations of child abuse and neglect;

3 (2) protocols for conducting investigations; and

4 (3) the coordination of investigations between the
5 department and law enforcement agencies.

6 SECTION 1.51. CASEWORKER FUNCTION STUDY. (a) The
7 Department of Family and Protective Services shall conduct a study
8 on the merits of revising the functions performed by caseworkers
9 employed by the department. In conducting the study required by
10 this section, the department shall explore the benefits of using
11 one caseworker to coordinate efforts on behalf of the child and the
12 child's parents.

13 (b) The department shall report the results of the study
14 conducted under Subsection (a) of this section to the lieutenant
15 governor and the speaker of the house of representatives not later
16 than January 1, 2006.

17 SECTION 1.52. USE OF LOCAL CASEWORKERS. If the Department
18 of Family and Protective Services places a child in a home in an
19 administrative region other than the region in which the child's
20 caseworker is located, the department shall consider using a
21 caseworker from the region in which the child is placed to conduct
22 home visits for that child.

23 ARTICLE 2. ADULT PROTECTIVE SERVICES

24 SECTION 2.01. Subchapter B, Chapter 40, Human Resources
25 Code, is amended by adding Section 40.0315 to read as follows:

26 Sec. 40.0315. INVESTIGATION UNIT FOR ADULT PROTECTIVE
27 SERVICES. (a) The adult protective services division of the

1 department shall maintain an investigation unit to investigate
2 allegations of abuse, neglect, and exploitation of elderly and
3 disabled persons reported to the division.

4 (b) An investigator in the unit shall determine whether an
5 elderly or disabled person who is the subject of a report made under
6 Section 48.051(a) may have suffered from abuse, neglect, or
7 exploitation as a result of the criminal conduct of another person.
8 If the investigator determines that criminal conduct may have
9 occurred, the investigator shall immediately notify the
10 appropriate law enforcement agency.

11 SECTION 2.02. Subchapter B, Chapter 40, Human Resources
12 Code, is amended by adding Section 40.035 to read as follows:

13 Sec. 40.035. TRAINING PROGRAM FOR ADULT PROTECTIVE
14 SERVICES; CONTINUING EDUCATION. (a) The department shall develop
15 and implement a training program that each newly hired or assigned
16 department employee must complete before:

17 (1) initiating an investigation of a report of alleged
18 abuse, neglect, or exploitation of an elderly or disabled person
19 under Chapter 48; or

20 (2) providing protective services to elderly or
21 disabled persons under that chapter.

22 (b) The training program must:

23 (1) provide the person with appropriate comprehensive
24 information regarding:

25 (A) the incidence and types of reports of abuse,
26 neglect, and exploitation of elderly or disabled persons that are
27 received by the department, including information concerning false

1 reports; and

2 (B) the use and proper implementation of:

3 (i) the risk assessment criteria developed
4 under Section 48.004; and

5 (ii) the legal procedures available under
6 Chapter 48 for the protection of elderly or disabled persons,
7 including the procedures for obtaining a court order for emergency
8 protective services under Section 48.208;

9 (2) include best practices for management of a case
10 from the intake process to the provision of guardianship services,
11 if any, including criteria that specify the circumstances under
12 which an employee should:

13 (A) consult a supervisor regarding a case; or

14 (B) refer an elderly or disabled person to an
15 appropriate public agency or community service provider for
16 guardianship or other long-term services after the delivery of
17 protective services to that person has been completed;

18 (3) provide appropriate specialized training in any
19 necessary topics, including:

20 (A) investigation of suspected financial
21 exploitation and self-neglect; and

22 (B) establishment and maintenance of working
23 relationships with community organizations and other local
24 providers who provide services to elderly and disabled persons;

25 (4) include on-the-job training;

26 (5) provide for the development of individualized
27 training plans; and

1 (6) include training in working with law enforcement
2 agencies and the court system when legal intervention is sought for
3 investigations, emergency orders, or the provision of guardianship
4 services.

5 (c) The department at least annually shall provide
6 comprehensive case management training to supervisors of
7 department employees who conduct investigations under Chapter 48.
8 The training must be designed to enable the supervisors to provide
9 guidance on investigations of reports of alleged abuse, neglect, or
10 exploitation that are complex or present unique problems.

11 (d) The department shall develop and implement appropriate
12 continuing education programs for employees of the adult protective
13 services division who have completed initial training under this
14 section. The continuing education programs must be designed to
15 provide an annual update regarding changes in:

16 (1) adult protective services division policies and
17 procedures; and

18 (2) applicable law, including statutory changes
19 affecting the adult protective services division or elderly or
20 disabled persons served by the division.

21 (e) A department employee required to participate in a
22 continuing education program under this section must complete the
23 program at least once each calendar year.

24 (f) The department shall:

25 (1) make curriculum developed for a training or
26 continuing education program under this section readily available
27 to department employees in written form; and

1 (2) periodically revise a training and continuing
2 education program established under this section as necessary to
3 satisfy training needs identified by the department or department
4 employees.

5 SECTION 2.03. (a) Subchapter C, Chapter 40, Human
6 Resources Code, is amended by adding Section 40.0515 to read as
7 follows:

8 Sec. 40.0515. QUALITY ASSURANCE PROGRAM FOR ADULT
9 PROTECTIVE SERVICES; QUARTERLY REPORTS. (a) The department shall
10 develop and implement a quality assurance program for adult
11 protective services provided by or on behalf of the department.

12 (b) In developing the program, the department shall
13 establish:

14 (1) client-centered outcome measures for each of the
15 following functions of the adult protective services program:

16 (A) intake process;

17 (B) investigations;

18 (C) risk assessment determinations;

19 (D) delivery of protective services; and

20 (E) provision of guardianship services;

21 (2) minimum job performance standards for
22 personnel and each work department of the adult protective services
23 division of the department; and

24 (3) procedures for conducting periodic performance
25 reviews to monitor compliance with the standards established under
26 Subdivision (2).

27 (c) The department shall promptly address a person's or work

1 department's failure to meet minimum job performance standards
2 established under Subsection (b)(2):

3 (1) by issuing to the person or work department, as
4 appropriate, a corrective action plan detailing the actions
5 required to comply with the standards; or

6 (2) if necessary, through disciplinary action,
7 including a person's demotion or discharge, for repeated failure to
8 meet the standards.

9 (d) Each employee of the adult protective services division
10 must receive a performance evaluation required by Section 40.032(c)
11 at least annually. The department shall ensure that disciplinary
12 or other corrective action is taken against a supervisor or other
13 managerial employee who is required to conduct a performance
14 evaluation and fails to complete that evaluation in a timely
15 manner.

16 (e) A summary of the findings of outcome measures
17 established and performance reviews conducted under this section
18 must be reported to regional directors and other senior management
19 employees of the adult protective services division.

20 (f) Each fiscal quarter the department shall file with the
21 governor and the presiding officer of each house of the legislature
22 a report that includes:

23 (1) a comprehensive review of the adult protective
24 services division's overall performance during the preceding
25 quarter; and

26 (2) a summary of the adult protective services
27 division's performance during the preceding quarter on each of the

1 outcome measures established under Subsection (b)(1).

2 (b) The Department of Family and Protective Services shall
3 submit the initial report required under Section 40.010, Human
4 Resources Code, as added by this section, not later than October 1,
5 2005.

6 SECTION 2.04. Subchapter A, Chapter 48, Human Resources
7 Code, is amended by adding Section 48.004 to read as follows:

8 Sec. 48.004. RISK ASSESSMENT. The executive commissioner
9 of the Health and Human Services Commission by rule shall develop
10 and maintain risk assessment criteria for use by department
11 personnel in determining whether an elderly or disabled person is
12 in a state of abuse, neglect, or exploitation and needs protective
13 services. The criteria must provide for a comprehensive assessment
14 of the person's:

15 (1) environmental, physical, medical, mental health,
16 and financial condition; and

17 (2) social interaction and support.

18 SECTION 2.05. Section 48.051(a), Human Resources Code, is
19 amended to read as follows:

20 (a) Except as prescribed by Subsection (b), a person having
21 cause to believe that an elderly or disabled person is in the state
22 of abuse, neglect, or exploitation shall report the information
23 required by Subsection (d) immediately to the department. A person
24 may make a report required by this subsection through a
25 person-to-person telephone interview with local department
26 personnel, through a personal appearance at a department office, or
27 by calling a centralized toll-free telephone number.

1 SECTION 2.06. Section 48.101, Human Resources Code, is
2 amended by adding Subsections (g) and (g-1) to read as follows:

3 (g) The department may establish procedures to exchange
4 with a community service provider or local governmental entity
5 confidential information relating to a report made under Section
6 48.051(a) that is necessary for the department, provider, or entity
7 to provide protective services, health care services, housing
8 services, or social services to the person who is the subject of the
9 report. An exchange of information under this subsection does not
10 affect whether the information is subject to disclosure under
11 Chapter 552, Government Code.

12 (g-1) The executive commissioner of the Health and Human
13 Services Commission by rule shall provide policies and procedures
14 that are designed to guard against the unauthorized release or
15 dissemination of confidential information that is exchanged under
16 Subsection (g).

17 SECTION 2.07. Section 48.151, Human Resources Code, is
18 amended by adding Subsection (c-1) to read as follows:

19 (c-1) The department shall develop and implement a system to
20 ensure that, to the greatest extent possible, investigations
21 conducted by the department that involve especially complex issues
22 of abuse, neglect, or exploitation, such as issues associated with
23 self-neglect, mental health, or financial exploitation, are
24 assigned to personnel who have experience and training in those
25 issues.

26 SECTION 2.08. Subchapter D, Chapter 48, Human Resources
27 Code, is amended by adding Section 48.158 to read as follows:

1 Sec. 48.158. STATUS REPORT OF INVESTIGATION. (a)

2 Notwithstanding any other law, the department, on written request,
3 shall provide to a person who makes a report of alleged abuse,
4 neglect, or exploitation under Section 48.051(a) information on the
5 status of the investigation conducted with respect to the report,
6 unless the department determines that providing the information
7 would:

8 (1) jeopardize the investigation; or

9 (2) endanger the safety or welfare of the person who is
10 the subject of the report.

11 (b) The information provided under Subsection (a) must
12 include information relating to whether the department is providing
13 protective services to the person.

14 SECTION 2.09. Subchapter D, Chapter 48, Human Resources
15 Code, is amended by adding Section 48.159 to read as follows:

16 Sec. 48.159. INTERNAL REVIEW OF DEPARTMENT INVESTIGATION.

17 The department shall establish procedures for conducting an
18 internal review of completed investigations conducted by the
19 department under this chapter to:

20 (1) determine whether information obtained during the
21 intake process was sufficient and accurate;

22 (2) assess whether telephone calls were appropriately
23 routed;

24 (3) assess whether investigations were appropriately
25 classified and prioritized;

26 (4) evaluate the case reports for any special issues
27 or requirements;

1 (5) assess whether appropriate law enforcement
2 agencies were notified of any suspected criminal conduct; and

3 (6) identify other relevant information to enable the
4 department to take any corrective action necessary to improve the
5 process of conducting investigations under this chapter.

6 SECTION 2.10. Subchapter E, Chapter 48, Human Resources
7 Code, is amended by adding Section 48.2055 to read as follows:

8 Sec. 48.2055. TEMPORARY EMERGENCY SHELTERS. (a) The
9 department, in conjunction with the Department of Aging and
10 Disability Services and the Department of State Health Services,
11 shall develop and implement a program to provide temporary
12 emergency shelter to an elderly or disabled person for whom the
13 department obtains an emergency order under Section 48.208
14 requiring that the person be moved to safer surroundings.

15 (b) The department, the Department of Aging and Disability
16 Services, and the Department of State Health Services shall enter
17 into a memorandum of understanding to clearly define the
18 responsibilities of each agency under this section.

19 (c) The executive commissioner of the Health and Human
20 Services Commission shall adopt rules to implement this section.

21 SECTION 2.11. Section 48.208, Human Resources Code, is
22 amended by amending Subsection (c) and adding Subsections (c-1) and
23 (c-2) to read as follows:

24 (c) The petition shall be verified and shall include:

25 (1) the name, age, and address of the elderly or
26 disabled person who needs protective services;

27 (2) the nature of the abuse, neglect, or exploitation;

1 (3) the services needed; and

2 (4) a medical report signed by a physician that
3 contains the information required by Subsection (c-1) or a
4 psychological report signed by a psychologist licensed under
5 Chapter 501, Occupations Code, that contains the information
6 required by Subsection (c-2), [~~stating that the person is suffering~~
7 ~~from abuse, neglect, or exploitation presenting a threat to life or~~
8 ~~physical safety and stating that the person is physically or~~
9 ~~mentally incapable of consenting to services] unless the court
10 finds that an immediate danger to the health or safety of the
11 elderly or disabled person exists and there is not sufficient time
12 to obtain the medical or psychological report.~~

13 (c-1) A medical report obtained from a physician under
14 Subsection (c)(4) must state that the person:

15 (1) is suffering from abuse, neglect, or exploitation
16 presenting a threat to life or physical safety; and

17 (2) is physically or mentally incapable of consenting
18 to services.

19 (c-2) A psychological report obtained from a licensed
20 psychologist under Subsection (c)(4) must state that the person:

21 (1) is suffering from abuse, neglect, or exploitation
22 presenting a threat to life or physical safety; and

23 (2) is mentally incapable of consenting to services.

24 SECTION 2.12. Section 48.209(c), Human Resources Code, is
25 amended to read as follows:

26 (c) The [~~If appropriate, the~~] department shall [~~may~~]
27 contract with [~~a political subdivision of this state,~~] a private

1 agency [~~, or another state agency~~] for the provision of guardianship
2 services under this section. The department [~~or a political~~
3 ~~subdivision of the state or state agency with which the department~~
4 ~~contracts under this section~~] is not required to post a bond or pay
5 any cost or fee otherwise required by the Texas Probate Code.

6 SECTION 2.13. (a) Subchapter B, Chapter 531, Government
7 Code, is amended by adding Section 531.0551 to read as follows:

8 Sec. 531.0551. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR
9 CERTAIN ELDERLY OR DISABLED PERSONS NEEDING MULTIAGENCY SERVICES.

10 (a) In this section, "disabled person," "elderly person," and
11 "protective services" have the meanings assigned by Section 48.002,
12 Human Resources Code.

13 (b) The commission and each health and human services agency
14 shall adopt a joint memorandum of understanding to implement a
15 system of local-level interagency staffing groups to coordinate
16 services for an elderly or disabled person who needs multiagency
17 services in addition to receiving protective services from or on
18 behalf of the Department of Family and Protective Services.

19 (c) The memorandum must:

20 (1) clarify the financial and statutory
21 responsibilities of each agency with respect to elderly or disabled
22 persons needing multiagency services in addition to protective
23 services, including subcategories of funding for different
24 services such as case management, arranging for psychiatric and
25 health evaluation, home care, health care, and investigation
26 services;

27 (2) include a functional definition of "elderly and

1 disabled persons needing multiagency services in addition to
2 protective services";

3 (3) define procedures for interagency cost sharing;

4 (4) define procedures aimed at eliminating
5 duplication of services relating to assessment and diagnosis,
6 treatment, social services, residential placement and care, and
7 case management of elderly and disabled persons needing multiagency
8 services in addition to protective services;

9 (5) define procedures for addressing disputes between
10 the agencies that relate to the agencies' areas of service
11 responsibilities;

12 (6) provide that each local-level interagency
13 staffing group includes:

14 (A) a local representative of each agency;

15 (B) one or more representatives of local private
16 sector agencies;

17 (C) a representative of a local law enforcement
18 agency;

19 (D) a health care provider; and

20 (E) one or more family members or caregivers of
21 elderly or disabled persons needing multiagency services in
22 addition to protective services;

23 (7) provide that the local representative of each
24 agency has authority to contribute agency resources to solving
25 problems identified by the local-level interagency staffing group;

26 (8) provide that if an elderly or disabled person's
27 needs exceed the resources of an agency or an agency is not able to

1 provide all the services an elderly or disabled person requires,
2 the agency may, with the consent of the person's legal guardian, if
3 applicable, submit a referral on behalf of the person or the
4 person's case history to the local-level interagency staffing group
5 for consideration;

6 (9) provide that a local-level interagency staffing
7 group may be called together by a representative of any member
8 agency;

9 (10) provide that an agency representative may be
10 excused from attending a meeting if the staffing group determines
11 that the age or needs of the person to be considered are clearly not
12 within the agency's service responsibilities, provided that each
13 agency representative is encouraged to attend all meetings to
14 contribute to the collective ability of the staffing group to solve
15 an elderly or disabled person's need for multiagency services in
16 addition to protective services;

17 (11) provide that records that are used or developed
18 by a local-level interagency staffing group or its members and that
19 relate to a particular elderly or disabled person are confidential
20 and may not be released to any other person or agency except as
21 provided by this section or by other law; and

22 (12) provide a procedure that permits the agencies and
23 local-level interagency staffing groups to share confidential
24 information while preserving the confidential nature of the
25 information.

26 (d) The agencies that participate in the formulation of the
27 memorandum of understanding shall consult with and solicit input

1 from advocacy and consumer groups.

2 (e) Each agency shall adopt the memorandum of understanding
3 and all revisions to the memorandum. Not later than the last month
4 of each state fiscal year, each agency shall review and update the
5 memorandum. The agencies shall develop revisions as necessary to
6 reflect major agency reorganizations or statutory changes
7 affecting the agencies.

8 (f) The agencies shall ensure that a state-level
9 interagency staffing group provides to the executive commissioner
10 of the Health and Human Services Commission, the commissioner of
11 each agency, the governor, the lieutenant governor, the speaker of
12 the house of representatives, and the presiding officers of each
13 house and senate standing committee having jurisdiction over adult
14 protective services a biennial report that includes:

15 (1) the number of elderly or disabled persons served
16 through the local-level interagency staffing groups established
17 under this section and the outcomes of the services provided;

18 (2) a description of any barriers identified to the
19 state's ability to provide effective services to elderly or
20 disabled persons needing multiagency services in addition to
21 protective services; and

22 (3) any other information relevant to improving the
23 delivery of services to elderly or disabled persons needing
24 multiagency services in addition to protective services.

25 (b) Not later than March 1, 2006, the Department of Family
26 and Protective Services, the Health and Human Services Commission,
27 the Department of Aging and Disability Services, the Department of

1 State Health Services, and the Department of Assistive and
2 Rehabilitative Services shall adopt a joint memorandum of
3 understanding as prescribed by Section 531.0551, Government Code,
4 as added by this section.

5 SECTION 2.14. The heading of Section 531.055, Government
6 Code, is amended to read as follows:

7 Sec. 531.055. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR
8 CERTAIN PERSONS NEEDING MULTIAGENCY SERVICES.

9 SECTION 2.15. Sections 531.055(a), (b), and (e), Government
10 Code, are amended to read as follows:

11 (a) Each health and human services agency, the Texas Council
12 on Offenders with Mental Impairments, the Texas Department of
13 Criminal Justice, the Texas Department of Housing and Community
14 Affairs, the Texas Education Agency, the Texas Workforce
15 Commission, and the Texas Youth Commission shall adopt a joint
16 memorandum of understanding to promote a system of local-level
17 interagency staffing groups to coordinate services for persons
18 needing multiagency services other than elderly or disabled persons
19 served through the local-level interagency staffing groups
20 established under Section 531.0551.

21 (b) The memorandum must:

22 (1) clarify the statutory responsibilities of each
23 agency in relation to persons needing multiagency services other
24 than elderly or disabled persons served under Section 531.0551,
25 including subcategories for different services such as prevention,
26 family preservation and strengthening, aging in place, emergency
27 shelter, diagnosis and evaluation, residential care, after-care,

1 information and referral, medical care, and investigation
2 services;

3 (2) include a functional definition for purposes of
4 this section of "persons needing multiagency services";

5 (3) outline membership, officers, and necessary
6 standing committees of local-level interagency staffing groups;

7 (4) define procedures aimed at eliminating
8 duplication of services relating to assessment and diagnosis,
9 treatment, residential placement and care, and case management of
10 persons needing multiagency services;

11 (5) define procedures for addressing disputes between
12 the agencies that relate to the agencies' areas of service
13 responsibilities;

14 (6) provide that each local-level interagency
15 staffing group includes:

16 (A) a local representative of each agency;

17 (B) representatives of local private sector
18 agencies; and

19 (C) family members or caregivers of persons,
20 other than elderly or disabled persons served under Section
21 531.0551, who need ~~needing~~ multiagency services or other current
22 or previous consumers of multiagency services acting as general
23 consumer advocates;

24 (7) provide that the local representative of each
25 agency has authority to contribute agency resources to solving
26 problems identified by the local-level interagency staffing group;

27 (8) provide that if a person's needs exceed the

1 resources of an agency, the agency may, with the consent of the
2 person's legal guardian, if applicable, submit a referral on behalf
3 of the person to the local-level interagency staffing group for
4 consideration;

5 (9) provide that a local-level interagency staffing
6 group may be called together by a representative of any member
7 agency;

8 (10) provide that an agency representative may be
9 excused from attending a meeting if the staffing group determines
10 that the age or needs of the person to be considered are clearly not
11 within the agency's service responsibilities, provided that each
12 agency representative is encouraged to attend all meetings to
13 contribute to the collective ability of the staffing group to solve
14 a person's need for multiagency services;

15 (11) define the relationship between state-level
16 interagency staffing groups and local-level interagency staffing
17 groups in a manner that defines, supports, and maintains local
18 autonomy;

19 (12) provide that records that are used or developed
20 by a local-level interagency staffing group or its members that
21 relate to a particular person are confidential and may not be
22 released to any other person or agency except as provided by this
23 section or by other law; and

24 (13) provide a procedure that permits the agencies to
25 share confidential information while preserving the confidential
26 nature of the information.

27 (e) The agencies shall ensure that a state-level

1 interagency staffing group provides a biennial report to the
2 executive director of each agency, the legislature, and the
3 governor that includes:

4 (1) the number of persons served through the
5 local-level interagency staffing groups established under this
6 section and the outcomes of the services provided;

7 (2) a description of any barriers identified to the
8 state's ability to provide effective services to persons needing
9 multiagency services other than elderly or disabled persons served
10 through the local-level interagency staffing groups established
11 under Section 531.0551; and

12 (3) any other information relevant to improving the
13 delivery of services to persons needing multiagency services other
14 than elderly or disabled persons described by Subdivision (2).

15 ARTICLE 3. EFFECTIVE DATE

16 SECTION 3.01. This Act takes effect September 1, 2005.